



DIAC
PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re the application of:

Ying

Art Unit: 1765

Application Number: 09/247,974

Examiner: Tran, B

Filing Date: February 11, 1999

TKHR Ref: 252016-2310

Title: **KEY-HOLE FREE PROCESS FOR HIGH ASPECT RATIO GAP**

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

**Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450**

Sir:

Applicant hereby petitions the PTO to withdraw its holding of abandonment in the above-referenced patent application due to the fact that the PTO never entered an RCE application that was timely filed, as detailed by the facts set forth below.

Relevant Facts

On May 16, 2000, the United States Patent & Trademark Office (USPTO) mailed a FINAL Office Action in the above-referenced application. On June 23, 2000, within two months of the mailing date of the FINAL Office Action, Applicant's representative (George O. Saile) mailed a response to that Office Action. A copy of the transmittal sheet for that response, along with a return post card (indicating the PTO's receipt of that response on June 27, 2000, is attached hereto as **Exhibit A**.

It appear, however, that the PTO never entered this response into the record. On or about November 7, 2000, as the six-month after-FINAL date approached, Applicant's representative called the PTO to inquire. Being informed that the after-FINAL submission had not been entered into the record, Applicant's representative faxed a copy of the submission to the PTO. A copy of this facsimile transmittal is attached hereto as **Exhibit B**.

Immediately following that, on November 13, 2000, the PTO mailed an Advisory Action. In response to the Advisory Action, Applicant timely filed a Request for Continued Examination application. A copy of this RCE application, along with a photocopy of the receipt-confirming postcard, it attached hereto as **Exhibit C**.

Further, in connection with the submission of this RCE, Applicant's representative contacted a Ms. Bessie Bowie of the PTO, to inquire about any necessary extensions of time. Applicant's representative was informed that no extensions would be required, since the PTO failed to enter the timely filed after-FINAL submission. A transmittal memorializing this conversation was submitted along with the RCE application, and a photocopy of the same is attached hereto as **Exhibit D**.

On January 26, 2001, a Notice of Abandonment was purportedly mailed by the U.S. PTO. However, it is believed that no such notice was ever received by Applicant's representative, else a petition to withdraw such abandonment would have been promptly filed.

In or about November 2004, this application was transferred to the firm of the undersigned attorney, and an appropriate revocation/power of attorney was filed. At the time of this transfer, the office of the undersigned inspected the physical file received from the previous representative, and entered into its docket system all relevant dates.

A copy of the docket sheet that was printed at this time (November 3, 2004) is attached hereto as **Exhibit E**.

As can be seen from this docket sheet, the last entry noted was the filing of the request for continued examination on November 16, 2000. Had the notice of abandonment been in the file, the office of the undersigned would have made an appropriate notation and followed-up at that time.

On or about May 7, 2007, the undersigned received a request from the Applicant to check the status of this matter. In response, the undersigned filed a status inquiry, and promptly received a call from Examiner Tran, explaining that this application had been abandoned in 2000. Examiner Tran provided a courtesy facsimile to the undersigned of the original Notice of Abandonment, along with a printout of information from the PTO's PALM system. A copy of this facsimile is attached hereto as **Exhibit F**.

As can be seen from this facsimile, there is a May 16, 2000 entry for the mailing of the FINAL rejection, and the next entry is a November 6, 2000, entry of Applicant's response. There is no entry of the after-FINAL response of Exhibit A, which was filed on June 23, 2000. Similarly, there is no entry in the PALM docket of the RCE application of Exhibit C, which was timely filed on November 16, 2000.

Therefore, the foregoing faces show that the PTO clearly erred in abandoning this application, and should abandonment should be withdrawn. The undersigned appreciates that a significant period of time has elapsed since the time of the abandonment and the filing of this petition, but that this delay should be accepted as excused because the notice of abandonment was not received until May 2007 (from the fax of Examiner Tran). Indeed, shortly after taking over the responsibility of this application (in May 2005), the undersigned filed a status inquiry in this application. A

copy of this status inquiry is attached hereto as **Exhibit G**. This inquiry appears to have been entered in the PALM system as a "Miscellaneous Incoming Letter" (see Exhibit F, entry of May 23, 2005), but was never responded to by the PTO. Indeed, had the PTO responded at that time, this submission could have been made at that time.

No fee is believed to be due in connection with this submission. If, however, any fee is deemed to be payable, you are hereby authorized to charge any such fee to deposit account 20-0778.

Respectfully submitted,



Daniel R. McClure, Reg. No. 38,962
Attorney for Applicant

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
100 Galleria Parkway
Suite 1750
Atlanta, Georgia 30339-5948
Telephone: (770) 933-9500

Certificate of Mailing

I hereby certify that this correspondence (Petition and Exhibits A-G) is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop Petitions; Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 22, 2007.



Signature – Hui Chin Barnhill

TS98-518

Serial number 09/247,974

AMENDMENT AND RESPONSE TO OFFICE ACTION

TO: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

From : George O. Saile (Reg. No. 19,572)
20 McIntosh Drive
Poughkeepsie, NY 12603

Date: 10 June, 2000

REF: APPLICANT : Quek S.
SERIAL NO. : 09/290,920
ART UNIT : 3723
FILING DATE : 04/12/99
ATT'Y NO. : CS98-124
EXAMINER : Banks, D
TITLE : DOUBLE POLISHING HEAD

Sir:

In response to an office action mailed on 05/16/00,
please consider the following amendments and remarks with
respect to the above referenced application.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being
deposited with the United States Postal service as First
Class mail in an envelop addressed to the Commissioner of
Patents and Trademarks, Washington, D.C. 20231, on *June 23, 2000.*

George O. Saile
(Reg. No 19,572)

GEORGE O. SAILE

Name

George O. Saile

Signature

6/23/00

Date

Exhibit A, p. 1 of 2

09/247,974

2/11/99

TS 98-518

6/23/00

A Key-Hole Free Process For High Ratio
Gap Filling With Reentrant Spacer

Amend. A.F.



Rec'd by PTO

JUL 03 2000

Exhibit A, p. 2 of 2



TS98-518

November 7, 2000

TO: Commissioner of Patents and Trademarks
Washington, D.C. 20231

ATTN: Ms. Bessie Bowie
Art Unit#: 1700
FAX: 1-703-305-1086
Phone: 1-703-306-5665

FROM: George O. Saile, Reg. No. 19,572
Stephen B. Ackerman, Reg. No. 37,761
20 McIntosh Drive
Poughkeepsie, N.Y. 12603

SUBJECT: Serial # 09/247,974
File Date 2/11/99
Inventor: Tze-Liang Ying, et al

At your request, I am FAXing the Amendment After Final that was submitted to the PTO on 6/27/00. Please see the attached Amendment and PTO stamped postcard.

Sincerely,

Peggy Parisi
For George O. Saile and Associates

32 total pages faxed

MAY 25 2007

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Approved for use through xx/xx/xxxx. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995.
See The American Inventors Protection Act of 1999 (AIPA).

Application Number	09/274,974
Filing Date	2/11/99
First Named Inventor	T.L. Ying
Group Art Unit	1765
Examiner Name	B. Tran
Attorney Docket Number	TS 98-518C

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

NOTE: 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53 (d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

1. Submission required under 37 C.F.R. § 1.114

- a. ☒ Previously submitted
- i. ☒ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on June 27, 2000
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- iii. ☐ Other _____
- b. ☐ Enclosed
- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other _____

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
- b. ☐ Other _____

3. Fees

The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 19-0033
- i. ☒ RCE fee required under 37 C.F.R. § 1.17(e) \$ 710.00
- ii. ☐ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
- iii. ☐ Other _____
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	Stephen B. Ackerman	Registration No. (Attorney/Agent)	37,761
Signature	<i>Stephen B. Ackerman</i>	Date	Nov. 16, 2000

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail Commissioner For Patents, Box RCE, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trad.

Name (Print/Type)	Stephen B. Ackerman	Date	Nov. 16, 2000
Signature	<i>Stephen B. Ackerman</i>		

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND Fees and Completed Forms to the following address: Commissioner for Patents, Box RCE, Washington, DC 20231.

Exhibit C, p. 1 of 2

09/247,971

2/11/99

TS 98-518C

11/16/00

DEC 10 2000

A Key-Hole Free Process For High Aspect..

R.C.E

\$710.00



Rec'd by PTO

Exhibit C, p. 2 of 2

TS1998-518C

November 17, 2000

TO: Commissioner of Patents and Trademarks
Washington, D.C. 20231

Attn: Examiner: B. Tran
Art Unit#: 1765

FROM: George O. Saile, Reg. No. 19,572
20 McIntosh Drive
Poughkeepsie, N.Y. 12603

SUBJECT: Serial # 09/247,974
File Date 2/11/99
Inventor: Tze-Liang Ying

Please note that although the Amendment After Final was submitted on a timely manner, 6/23/00 (responding to the Final Rejection with a mail date of 5/16/00), our office did not receive an Advisory Action until today, Nov. 13, 2000. After speaking with Ms. Bessie Bowie (at 1-703-306-5665, Unit Clerk for 1700) and another clerk from that unit, it was understood by our Office Personnel that we did not owe the 3-month extension fee because of our timely response to the Final Rejection.

Please call our office if further information is needed (845-452-3204). Thank you.

Respectfully submitted,



Stephen B. Ackerman, Reg. No. 37,761

Country Application

Wednesday, November 03, 2004

Case Number: 252016-2310 **Country:** US **SubCase:**

Client: TAIWAN SEMICONDUCTOR M United States of America

Family ID: 252016-2310

Case Type: ORD

Application Status: Pending

Application Number: 09/247,974

Filing Date: 11-Feb-1999

Patent Number:

Issue Date:

Publication Number:

Publication Date:

Priority Number:

Priority Date:

Tax Schedule: LE

Expiration Date:

Tax Start Date:

Agent:

Agent Reference Number:

List Of Actions

Action(s) Due	Due Date	Action Taken
REQ CONTINUED EXAMINATION	16-Nov-2000	16-Nov-2000
APPLICATION STATUS CHECK	16-Apr-2005	Due Date

Remarks:

1. Filing receipt mailed 3/4/99
2. Corrected filing receipt mailed 4/16/99.
3. Corrected filing receipt mailed 4/22/99.
4. Corrected filing receipt mailed 7/13/99.
5. Notice of recordation of assignment mailed 5/12/99.
6. 3mo office action mailed 1/10/00.
7. 3mo office action mailed 5/16/00.
8. Advisory action mailed 11/13/00.

User ID: lmm

Date Created: 03-Nov-2004

Last Update: 03-Nov-2004

Please throw away OLD docket sheet after confirming dates. Keep only current sheet.

Exhibit E, p. 1 of 1



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Fax Cover Sheet

Date: 07 May 2007

To:	From: Binh X. Tran
Application/Control Number: 09/247,974	Art Unit: 1765
Fax No.: 404-795-0935	Phone No.: (571) 272-1469
Voice No.: 800-786-9833	Return Fax No.: (571) 273-8300
Re: Notice of Abandonment mailed 01-26-2001	CC:
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> For Comment <input type="checkbox"/> For Reply <input checked="" type="checkbox"/> Per Your Request	

Comments:

Enclosed is a copy of Notice of Abandonment mailed on 01-26-2001 and the content information for the above application

Number of pages 3 including this page

Exhibit F, p. 1 of 3

STATEMENT OF CONFIDENTIALITY

This facsimile transmission is an Official U.S. Government document which may contain information which is privileged and confidential. It is intended only for use of the recipient named above. If you are not the intended recipient, any dissemination, distribution or copying of this document is strictly prohibited. If this document is received in error, you are requested to immediately notify the sender at the above indicated telephone number and return the entire document in an envelope addressed to:

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P.O. Box 1450
Alexandria, VA 22313-1450


**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

 Address: COMMISSIONER OF PATENTS AND TRADEMARK
Washington, D.C. 20231

APPLICATION NUMBER 097247,974	FILING DATE 02/11/99	FIRST NAMED APPLICANT YINIR	ATTORNEY DOCKET NO. 1598-513
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 STEPHEN B ACKERMAN
20 MCINTOSH DRIVE
POUGHKEEPSIE NY 12603

IM52/0126

EXAMINER TRAN, B

ART UNIT 1765	PAPER NUMBER 12
------------------	--------------------

DATE MAILED:

01/26/01

NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 11/15/2000 (Advisory action)
- ☐ A reply (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for reply (including a total extension of _____ month(s)) which expired on _____.
- ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; or (2) Notice of Appeal).
- ☒ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- ☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.
- ☐ The submitted issue fee of \$ _____ is insufficient. The issue fee required by 37 CFR 1.18 is \$ _____.
- ☐ The issue fee has not been received.
- ☐ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability (PTOL-37).
- ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.
- ☐ The proposed new formal drawings filed _____ are not acceptable.
- ☐ No proposed new formal drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

Benjamin L. Utech
BENJAMIN L. UTECH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Exhibit F, p. 2 of 3

PALM INTRANET

Day : Monday
Date: 5/7/2007
Time: 10:54:07

Content Information for 09/247974

Search Another: Application# Search or Patent# Search
PCT / / Search or PG PUBS # Search
Attorney Docket # Search
Bar Code # Search

App Info Contents Petition Info Atty/Agent Info Continuity/Reexam Foreign Data

Date	Status	Code	Description
05/23/2005		LET.	MISCELLANEOUS INCOMING LETTER
01/26/2001		MABN2	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFIC
01/26/2001	161	ABN2	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE AC
11/13/2000	83	MCTAV	MAIL ADVISORY ACTION (PTOL - 303)
11/13/2000	82	CTAV	ADVISORY ACTION (PTOL-303)
11/06/2000		FWDX	DATE FORWARDED TO EXAMINER
11/06/2000	80	A.NE	AMENDMENT AFTER FINAL REJECTION
05/16/2000	61	MCTFR	MAIL FINAL REJECTION (PTOL - 326)
05/15/2000	60	CTFR	FINAL REJECTION
03/10/2000		FWDX	DATE FORWARDED TO EXAMINER
03/07/2000	71	A...	RESPONSE AFTER NON-FINAL ACTION
01/10/2000	41	MCTNF	MAIL NON-FINAL REJECTION
01/07/2000	40	CTNF	NON-FINAL REJECTION
09/16/1999		DOCK	CASE DOCKETED TO EXAMINER IN GAU
04/12/1999		M844	INFORMATION DISCLOSURE STATEMENT (IDS) FILED
07/13/1999		G038	PREEXAMINATION LOCATION CHANGE
05/13/1999	30	DOCK	CASE DOCKETED TO EXAMINER IN GAU
04/23/1999	20	OIPE	APPLICATION DISPATCHED FROM OIPE
04/14/1999		COMP	APPLICATION IS NOW COMPLETE
03/17/1999		INCD	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DAT
02/26/1999		SCAN	IFW SCAN & PACR AUTO SECURITY REVIEW
02/16/1999	19	IEXX	INITIAL EXAM TEAM NN

App Info Contents Petition Info Atty/Agent Info Continuity/Reexam Foreign Data

To go back use Back button on your browser toolbar.

Exhibit F, p. 3 of 3

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STATUS INQUIRY

Docket Number (Optional)
252016-2310

First Named Inventor: **Ying et al.**

Group Art Unit: **1765**

Application No.: **09/247,974**

Examiner: **Tran, B.**

Filed: **February 11, 1999**

Confirmation No.: **TBA**

Title: **Key-Hole Process for High Aspect
Ratio Gap Filling with Re-entrant Spacer**

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

WARNING: Submission of a status letter after a Notice of Allowance may subject an application to a reduction in patent term adjustment under 37 C.F.R. 1.704(c)(10). See Notice of May 29, 2001, 1247 OG 111-112, June 26, 2001.

1. More than **54** months have passed since

☐ NEW APPLICATIONS

the filing of this application on .

No communication has been received from the Patent and Trademark Office indicating action on this application.

(Note: Do not file a status inquiry until at least 18 months has elapsed with no communication from the PTO)

☒ AMENDED APPLICATIONS

the filing of a response on **November 16, 2000**.

No further communication has been received from the Patent and Trademark office.

(Note: Do not file a status inquiry until 6 months has elapsed with no response from the PTO)

☐ APPEALED APPLICATION

The Appeal Brief was filed on .

☐ An Examiner's Answer was mailed on .

☐ A Reply to the Examiner's Answer was submitted on .

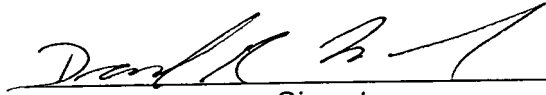
☐ ALLOWED APPLICATIONS

the mailing of FORM POL-327 and/or Examiner's Amendment on .

(check and complete applicable items below)

2. Kindly advise the undersigned of the present status of this application.

May 19, 2005
Date


Signature

Telephone Number: (770) 933-9500

Daniel R. McClure, Reg. No. 38,962

Typed or printed name

Thomas, Kayden, Horstemeyer & Risley LLP
100 Galleria Parkway
Suite 1750
Atlanta, GA 30339

CERTIFICATE OF MAILING 37 CFR 1.8(a)

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

May 19, 2005
Date


Signature